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In re Application of	:	
SMITH, et al.	:	DECISION ON
Serial No.: 10/575,117	:	
PCT No.: PCT/GB04/04328	:	RENEWED PETITION
Int. Filing Date: 11 October 2004	:	
Priority Date: 09 October 2003	:	UNDER 37 CFR 1.47(a)
Atty Docket No.: 317400017	:	
For: EXTENDIBLE MAST	:	

This decision is in response to applicant's renewed petition under 37 C.F.R. § 1.47 filed 12 May 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Alan Smith.

### **BACKGROUND**

On 11 October 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 12 May 2008, applicant filed the present renewed petition under 37 CFR 1.47(a) accompanied by payment of a five-month extension of time fee. With the filing of the petition for a five-month extension of time and payment of the appropriate extension of time fee, the present petition is considered timely filed.

### **DISCUSSION**

As detailed in the decision mailed 11 October 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

Applicant's original petition was dismissed as the petition and exhibits did not contain any firsthand account of attempts to locate the non-signing inventor nor copies of documentary evidence in support thereof. Applicant's present renewed petition is similarly lacking.

Applicant has merely re-submitted the exhibits from the 01 October 2007 filing while adding that, "Ms. Wallis has since tried to locate Alan Smith with a current address, and since no further information was obtained, this Renewed Petition was submitted..." Applicant has not included a signed statement from Ms. Wallis detailing her attempts. Applicant has not included any search results confirming the attempts to locate a current address for Mr. Smith. With regard to locating the inventor and having him execute an oath or declaration, applicant has merely stated that Ms. Wallis and Janile Limited (through Ms. Wallis) have stated that they cannot locate the inventor. This is insufficient. It is clear from the record that Mr. Smith has yet to be provided with a copy of the application papers and declaration for execution. Therefore, his silence cannot be considered a refusal. In addition, applicant has yet to provide a firsthand accounting and documentary evidence to support the contention that the inventor cannot be located. (See decision mailed 11 October 2007 citing MPEP section 409.03(d).

### CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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